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United States Environmental Protection Agency
Washington, D.C. 20460
Office of Solid Waste and Emergency Response

April 29, 1993

Mr. Joseph J. Werbicki
Technical Director
Agmet Resource Recovery
50 Howe Avenue
Millbury, Massachusetts 01527

Dear Mr. Werbicki:

Thank you for your letter dated March 19, 1993, regarding a prior EPA interpretation of certain recycling regulations under the Resource Conservation and Recovery Act (RCRA). Specifically, you asked whether or not the regulatory interpretation provided in our January 6, 1987, letter to Mr. Thomas Dufficy of the National Association of Photographic Manufacturers, Inc., was still a current EPA interpretation. In that letter we stated that certain silver-containing wastewater treatment sludges are not solid wastes when reclaimed.

The regulatory interpretation we provided you in our January 6, 1987, letter is still the Agency's current interpretation with the following clarifications. With regard to characterizing secondary materials containing silver, the regulatory level for the Toxicity Characteristic is 5.0 mg/L under the current regulations in 40 CFR 261.24. If an extract obtained using the TCLP procedure contains less than 5.0 mg/L, the material is not a characteristic hazardous waste.

In addition, according to 40 CFR 261.2, Table 1, characteristic sludges that are to be reclaimed are not solid wastes, and therefore are not hazardous wastes. If your particular secondary material is a characteristic sludge or by-product, this exclusion would apply (as long as the material is not otherwise a listed hazardous waste). These regulations have not changed since we responded to Mr. Dufficy's letter in 1987.

If the secondary material is a solid and hazardous waste (e.g., a spent material or listed sludge containing silver) and is sent for silver recovery, then this material is subject to the requirements outlined in 40 CFR Part 266, Subpart F, Recyclable Materials Utilized for Precious Metal Recovery.

Finally, please note that under Section 3006 of RCRA (42 U.S.C. Section 6926), individual States can be authorized to administer and enforce their own hazardous waste programs in lieu of the federal program. When a State is not authorized to administer its own program, the appropriate EPA Region administers the program and is the appropriate contact for any case-specific determinations. Please also note that under Section 3009 of RCRA (42 U.S.C. Section 6926) States retain authority to promulgate regulatory requirements that are more stringent than federal regulatory requirements.

If you need additional information, please contact Ross Elliott of my staff at (202) 260-8551. Thank you for your interest in the safe recycling of hazardous waste.

Sincerely,
Sylvia K. Lowrance, Director
Office of Solid Waste